

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To provide a complete substitute.

**IN THE SENATE OF THE UNITED STATES—108th Cong., 2d Sess.**

**S. 1097**

To authorize the Secretary of the Interior to implement the  
Calfed Bay-Delta Program.

Referred to the Committee on \_\_\_\_\_  
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Calfed Bay-Delta Au-  
5 thorization Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CALFED BAY-DELTA PROGRAM.—The terms  
9 “Calfed Bay-Delta Program” and “Program” mean  
10 the programs, projects, complementary actions, and

1 activities undertaken through coordinated planning,  
2 implementation, and assessment activities of the  
3 State agencies and Federal agencies as set forth in  
4 the Record of Decision and the California Bay-Delta  
5 Authority Act (Cal. Water Code § 79400 et seq.).

6 (2) CALIFORNIA BAY-DELTA AUTHORITY.—The  
7 terms “California Bay-Delta Authority” and “Au-  
8 thority” mean the California Bay-Delta Authority,  
9 as set forth in the California Bay-Delta Authority  
10 Act (Cal. Water Code § 79400 et seq.).

11 (3) ENVIRONMENTAL WATER ACCOUNT.—The  
12 term “Environmental Water Account” means the  
13 Cooperative Management Program established under  
14 the Record of Decision to provide water, in addition  
15 to the quantity of the regulatory baseline, to protect  
16 and restore Delta fisheries.

17 (4) FEDERAL AGENCIES.—The term “Federal  
18 agencies” means—

19 (A) the Department of the Interior,  
20 including—

21 (i) the Bureau of Reclamation;

22 (ii) the United States Fish and Wild-  
23 life Service;

24 (iii) the Bureau of Land Management;

25 and

1 (iv) the United States Geological Sur-  
2 vey;

3 (B) the Environmental Protection Agency;

4 (C) the Army Corps of Engineers;

5 (D) the Department of Commerce, includ-  
6 ing the National Marine Fisheries Service (also  
7 known as “NOAA Fisheries”);

8 (E) the Department of Agriculture,  
9 including—

10 (i) the Natural Resources Conserva-  
11 tion Service; and

12 (ii) the Forest Service; and

13 (F) the Western Area Power Administra-  
14 tion.

15 (5) GOVERNOR.—The term “Governor” means  
16 the Governor of the State of California.

17 (6) RECORD OF DECISION.—The term “Record  
18 of Decision” means the Calfed Bay-Delta Program  
19 Record of Decision, dated August 28, 2000.

20 (7) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Interior.

22 (8) STATE.—The term “State” means the State  
23 of California.

24 (9) STATE AGENCIES.—The term “State agen-  
25 cies” means—

1 (A) the Resources Agency of California,  
2 including—

3 (i) the Department of Water Re-  
4 sources;

5 (ii) the Department of Fish and  
6 Game;

7 (iii) the Reclamation Board;

8 (iv) the Delta Protection Commission;

9 (v) the Department of Conservation;

10 (vi) the San Francisco Bay Conserva-  
11 tion and Development Commission;

12 (vii) the Department of Parks and  
13 Recreation; and

14 (viii) the California Bay-Delta Au-  
15 thority;

16 (B) the California Environmental Protec-  
17 tion Agency, including the State Water Re-  
18 sources Control Board;

19 (C) the California Department of Food  
20 and Agriculture; and

21 (D) the Department of Health Services.

22 **SEC. 3. BAY DELTA PROGRAM.**

23 (a) IN GENERAL.—

24 (1) RECORD OF DECISION AS FRAMEWORK.—

25 The Record of Decision is approved as a framework

1 for addressing the Calfed Bay-Delta Program, in-  
2 cluding its components relating to water storage,  
3 ecosystem restoration, water supply reliability, con-  
4 veyance, water use efficiency, water quality, water  
5 transfers, watersheds, the Environmental Water Ac-  
6 count, levee stability, governance, and science.

7 (2) REQUIREMENTS.—The Secretary and the  
8 heads of the Federal agencies are authorized to  
9 carry out the activities described in subsection (b)  
10 subject to—

11 (A) the constraints of the Record of Deci-  
12 sion; and

13 (B) the requirements that Program activi-  
14 ties consisting of protecting drinking water  
15 quality, restoring ecological health, improving  
16 water supply reliability (including additional  
17 storage and conveyance), and protecting Delta  
18 levees will progress in a balanced manner.

19 (b) AUTHORIZED ACTIVITIES.—

20 (1) IN GENERAL.—The Secretary and the heads  
21 of the Federal agencies are authorized to carry out  
22 the activities described in paragraphs (2) through  
23 (5) in furtherance of the Calfed Bay-Delta Program  
24 as set forth in the Record of Decision, subject to the

1 cost-share and other provisions of this Act, if the ac-  
2 tivity has been—

3 (A) subject to environmental review and  
4 approval, as required under applicable Federal  
5 and State law; and

6 (B) approved and certified by the relevant  
7 Federal agency, following consultation and co-  
8 ordination with the California Bay-Delta Au-  
9 thority, to be consistent with the Record of De-  
10 cision.

11 (2) AUTHORIZATIONS FOR FEDERAL AGENCIES  
12 UNDER APPLICABLE LAW.—

13 (A) SECRETARY OF THE INTERIOR.—The  
14 Secretary of the Interior is authorized to carry  
15 out the activities described in subparagraphs  
16 (A) through (J) of paragraph (3), to the extent  
17 authorized under the reclamation laws, the Cen-  
18 tral Valley Project Improvement Act (title  
19 XXXIV of Public Law 102–575; 106 Stat.  
20 4706), the Fish and Wildlife Coordination Act  
21 (16 U.S.C. 661 et seq.), the Endangered Spe-  
22 cies Act of 1973 (16 U.S.C. 1531 et seq.), and  
23 other applicable law.

24 (B) ADMINISTRATOR OF THE ENVIRON-  
25 MENTAL PROTECTION AGENCY.—The Adminis-

1           trator of the Environmental Protection Agency  
2           is authorized to carry out the activities de-  
3           scribed in subparagraphs (C), (E), (F), (G),  
4           (H), and (I) of paragraph (3), to the extent au-  
5           thorized under the Federal Water Pollution  
6           Control Act (33 U.S.C. 1251 et seq.), the Safe  
7           Drinking Water Act (42 U.S.C. 300f et seq.),  
8           and other applicable law.

9           (C) SECRETARY OF THE ARMY.—The Sec-  
10          retary of the Army is authorized to carry out  
11          the activities described in subparagraphs (A),  
12          (B), (F), (G), (H), and (I) of paragraph (3), to  
13          the extent authorized under flood control, water  
14          resource development, and other applicable law.

15          (D) SECRETARY OF COMMERCE.—The Sec-  
16          retary of Commerce is authorized to carry out  
17          the activities described in subparagraphs (B),  
18          (F), (G), and (I) of paragraph (3), to the ex-  
19          tent authorized under the Fish and Wildlife Co-  
20          ordination Act (16 U.S.C. 661 et seq.), the En-  
21          dangered Species Act of 1973 (16 U.S.C. 1531  
22          et seq.), and other applicable law.

23          (E) SECRETARY OF AGRICULTURE.—The  
24          Secretary of Agriculture is authorized to carry  
25          out the activities described in subparagraphs

1 (C), (E), (F), (G), (H), and (I) of paragraph  
2 (3), to the extent authorized under title XII of  
3 the Food Security Act of 1985 (16 U.S.C. 3801  
4 et seq.), the Farm Security and Rural Invest-  
5 ment Act of 2002 (Public Law 107–171; 116  
6 Stat. 134) (including amendments made by that  
7 Act), and other applicable law.

8 (3) DESCRIPTION OF ACTIVITIES UNDER APPLI-  
9 CABLE LAW.—

10 (A) WATER STORAGE.—Activities under  
11 this subparagraph consist of—

12 (i) planning and feasibility studies for  
13 projects to be pursued with project-specific  
14 study for enlargement of—

15 (I) the Shasta Dam in Shasta  
16 County; and

17 (II) the Los Vaqueros Reservoir  
18 in Contra Costa County;

19 (ii) planning and feasibility studies for  
20 the following projects requiring further  
21 consideration—

22 (I) the Sites Reservoir in Colusa  
23 County; and



1 (II) the Upper San Joaquin  
2 River storage in Fresno and Madera  
3 Counties;

4 (iii) developing and implementing  
5 groundwater management and ground-  
6 water storage projects; and

7 (iv) comprehensive water management  
8 planning.

9 (B) CONVEYANCE.—

10 (i) SOUTH DELTA ACTIONS.—In the  
11 case of the South Delta, activities under  
12 this clause consist of—

13 (I) the South Delta Improve-  
14 ments Program through actions to—

15 (aa) increase the State  
16 Water Project export limit to  
17 8,500 cfs;

18 (bb) install permanent, oper-  
19 able barriers in the south Delta;

20 (cc) design and construct  
21 fish screens and intake facilities  
22 at the Tracy Pumping Plant fa-  
23 cilities; and

10

1 (dd) increase the State  
2 Water Project export to the max-  
3 imum capability of 10,300 cfs;

4 (II) reduction of agricultural  
5 drainage in south Delta channels, and  
6 other actions necessary to minimize  
7 the impact of drainage on drinking  
8 water quality;

9 (III) design and construction of  
10 lower San Joaquin River floodway im-  
11 provements;

12 (IV) installation and operation of  
13 temporary barriers in the south Delta  
14 until fully operable barriers are con-  
15 structed;

16 (V) actions to protect navigation  
17 and local diversions not adequately  
18 protected by temporary barriers; and

19 (VI) actions identified in sub-  
20 clause (I) or other actions necessary  
21 to offset the degradation of drinking  
22 water quality or adverse impacts to  
23 fishery protection in the Delta due to  
24 the South Delta Improvements Pro-  
25 gram.

1 (ii) NORTH DELTA ACTIONS.—In the  
2 case of the North Delta, activities under  
3 this clause consist of—

4 (I) evaluation and implementa-  
5 tion of improved operational proce-  
6 dures for the Delta Cross Channel to  
7 address fishery and water quality con-  
8 cerns;

9 (II) evaluation of a screened  
10 through-Delta facility on the Sac-  
11 ramento River; and

12 (III) design and construction of  
13 lower Mokelumne River floodway im-  
14 provements.

15 (iii) INTERTIES.—Activities under this  
16 clause consist of—

17 (I) evaluation and construction of  
18 an intertie between the State Water  
19 Project California Aqueduct and the  
20 Central Valley Project Delta Mendota  
21 Canal, near the City of Tracy; and

22 (II) assessment of a connection  
23 of the Central Valley Project to the  
24 Clifton Court Forebay of the State  
25 Water Project, with a corresponding

1 increase in the screened intake of the  
2 Forebay.

3 (C) WATER USE EFFICIENCY.—Activities  
4 under this subparagraph consist of—

5 (i) water conservation projects that  
6 provide water supply reliability, water  
7 quality, and ecosystem benefits to the Bay-  
8 Delta system;

9 (ii) technical assistance for urban and  
10 agricultural water conservation projects;

11 (iii) water recycling and desalination  
12 projects, including projects identified in  
13 the Bay Area Water Plan and the South-  
14 ern California Comprehensive Water Rec-  
15 lamation and Reuse Study and other  
16 projects, giving priority to projects that in-  
17 clude regional solutions to benefit regional  
18 water supply and reliability needs;

19 (iv) water measurement and transfer  
20 actions; and

21 (v) certification of implementation of  
22 best management practices for urban  
23 water conservation.

24 (D) WATER TRANSFERS.—Activities under  
25 this subparagraph consist of—

- 1 (i) increasing the availability of exist-  
2 ing facilities for water transfers;  
3 (ii) lowering transaction costs through  
4 permit streamlining; and  
5 (iii) maintaining a water transfer in-  
6 formation clearinghouse.

7 (E) INTEGRATED REGIONAL WATER MAN-  
8 AGEMENT PLANS.—Activities under this sub-  
9 paragraph consist of assisting local and regional  
10 communities in the State in developing and im-  
11 plementing integrated regional water manage-  
12 ment plans to carry out projects and programs  
13 that improve water supply reliability, water  
14 quality, ecosystem restoration, and flood protec-  
15 tion, or meet other local and regional needs, in  
16 a manner that is consistent with, and makes a  
17 significant contribution to, the Calfed Bay-  
18 Delta Program.

19 (F) ECOSYSTEM RESTORATION.—Activities  
20 under this subparagraph consist of—

- 21 (i) implementation of large-scale res-  
22 toration projects in San Francisco Bay and  
23 the Delta and its tributaries;  
24 (ii) restoration of habitat in the Delta,  
25 San Pablo Bay, and Suisun Bay and

1 Marsh, including tidal wetland and ripar-  
2 ian habitat;

3 (iii) fish screen and fish passage im-  
4 provement projects;

5 (iv) implementation of an invasive  
6 species program, including prevention, con-  
7 trol, and eradication;

8 (v) development and integration of  
9 Federal and State agricultural programs  
10 that benefit wildlife into the Ecosystem  
11 Restoration Program;

12 (vi) financial and technical support  
13 for locally-based collaborative programs to  
14 restore habitat while addressing the con-  
15 cerns of local communities;

16 (vii) water quality improvement  
17 projects to reduce salinity, selenium, mer-  
18 cury, pesticides, trace metals, dissolved ox-  
19 ygen, turbidity, sediment, and other pollut-  
20 ants;

21 (viii) land and water acquisitions to  
22 improve habitat and fish spawning and  
23 survival in the Delta and its tributaries;

1 (ix) integrated flood management,  
2 ecosystem restoration, and levee protection  
3 projects;

4 (x) scientific evaluations and targeted  
5 research on Program activities; and

6 (xi) strategic planning and tracking of  
7 Program performance.

8 (G) WATERSHEDS.—Activities under this  
9 subparagraph consist of—

10 (i) building local capacity to assess  
11 and manage watersheds affecting the  
12 Calfed Bay-Delta system;

13 (ii) technical assistance for watershed  
14 assessments and management plans; and

15 (iii) developing and implementing lo-  
16 cally-based watershed conservation, main-  
17 tenance, and restoration actions.

18 (H) WATER QUALITY.—Activities under  
19 this subparagraph consist of—

20 (i) addressing drainage problems in  
21 the San Joaquin Valley to improve down-  
22 stream water quality (including habitat  
23 restoration projects that reduce drainage  
24 and improve water quality) if—

## 16

1 (I) a plan is in place for moni-  
2 toring downstream water quality im-  
3 provements; and

4 (II) State and local agencies are  
5 consulted on the activities to be fund-  
6 ed;

7 except that no right, benefit, or privilege is  
8 created as a result of this clause;

9 (ii) implementation of source control  
10 programs in the Delta and its tributaries;

11 (iii) developing recommendations  
12 through scientific panels and advisory  
13 council processes to meet the Calfed Bay-  
14 Delta Program goal of continuous improve-  
15 ment in Delta water quality for all uses;

16 (iv) investing in treatment technology  
17 demonstration projects;

18 (v) controlling runoff into the Cali-  
19 fornia aqueduct, the Delta-Mendota Canal,  
20 and other similar conveyances;

21 (vi) addressing water quality problems  
22 at the North Bay Aqueduct;

23 (vii) supporting and participating in  
24 the development of projects to enable San  
25 Francisco Bay Area water districts to work



1 cooperatively to address their water quality  
2 and supply reliability issues, including—

3 (I) connections between aque-  
4 ducts, water transfers, water con-  
5 servation measures, institutional ar-  
6 rangements, and infrastructure im-  
7 provements that encourage regional  
8 approaches; and

9 (II) investigations and studies of  
10 available capacity in a project to de-  
11 liver water to the East Bay Municipal  
12 Utility District under its contract with  
13 the Bureau of Reclamation, dated  
14 July 20, 2001, in order to determine  
15 if such capacity can be utilized to  
16 meet the objectives of this clause;

17 (viii) development of water quality ex-  
18 changes and other programs to make high  
19 quality water available for urban and other  
20 users; and

21 (ix) development and implementation  
22 of a plan to meet all water quality stand-  
23 ards for which the Federal and State water  
24 projects have responsibility.

1 (I) SCIENCE.—Activities under this sub-  
2 paragraph consist of—

3 (i) establishing and maintaining an  
4 independent science board, technical pan-  
5 els, and standing boards to provide over-  
6 sight and peer review of the Program;

7 (ii) conducting expert evaluations and  
8 scientific assessments of all Program ele-  
9 ments;

10 (iii) coordinating existing monitoring  
11 and scientific research programs;

12 (iv) developing and implementing  
13 adaptive management experiments to test,  
14 refine, and improve scientific under-  
15 standings;

16 (v) establishing performance meas-  
17 ures, and monitoring and evaluating the  
18 performance of all Program elements; and

19 (vi) preparing an annual science re-  
20 port.

21 (J) DIVERSIFICATION OF WATER SUP-  
22 PLIES.—Activities under this subparagraph con-  
23 sist of actions to—

- 1 (i) diversify sources of level 2 refuge  
2 supplies and modes of delivery to refugees;  
3 and  
4 (ii) acquire additional water for level  
5 4 refuge supplies.

6 (4) NEW AND EXPANDED AUTHORIZATIONS FOR  
7 FEDERAL AGENCIES.—

8 (A) IN GENERAL.—The heads of the Fed-  
9 eral agencies described in this paragraph are  
10 authorized to carry out the activities described  
11 in paragraph (5) during each of fiscal years  
12 2005 through 2010, in coordination with the  
13 Bay-Delta Authority.

14 (B) SECRETARY OF THE INTERIOR.—The  
15 Secretary of the Interior is authorized to carry  
16 out the activities described in subparagraphs  
17 (A) , (B), and (D) of paragraph (5).

18 (C) ADMINISTRATOR OF THE ENVIRON-  
19 MENTAL PROTECTION AGENCY AND THE SECRE-  
20 TARIES OF AGRICULTURE AND COMMERCE.—  
21 The Administrator of the Environmental Pro-  
22 tection Agency, the Secretary of Agriculture,  
23 and the Secretary of Commerce are authorized  
24 to carry out the activities described in para-  
25 graph (5)(D).

1 (D) SECRETARY OF THE ARMY.—The Sec-  
2 retary of the Army is authorized to carry out  
3 the activities described in subparagraph (C) and  
4 (D) of paragraph (5).

5 (5) DESCRIPTION OF ACTIVITIES UNDER NEW  
6 AND EXPANDED AUTHORIZATIONS.—

7 (A) CONVEYANCE.—Of the amounts au-  
8 thorized to be appropriated under section 8, not  
9 more than \$184,000,000 may be expended  
10 for—

11 (i) feasibility studies, evaluation, and  
12 implementation of the San Luis Reservoir  
13 lowpoint improvement project, except that  
14 Federal participation in any expansion of  
15 the Pacheco Reservoir shall be subject to  
16 future congressional authorization;

17 (ii) feasibility studies and actions at  
18 Franks Tract to improve water quality in  
19 the Delta;

20 (iii) feasibility studies and design of  
21 fish screen and intake facilities at Clifton  
22 Court Forebay and the Tracy Pumping  
23 Plant facilities; and

24 (iv) feasibility studies to investigate  
25 the recirculation of export water to reduce

1 salinity and improve dissolved oxygen in  
2 the San Joaquin River.

3 (B) ENVIRONMENTAL WATER ACCOUNT.—  
4 Of the amounts authorized to be appropriated  
5 under section 8, not more than \$90,000,000  
6 may be expended for implementation of the En-  
7 vironmental Water Account.

8 (C) LEVEE STABILITY.—Of the amounts  
9 authorized to be appropriated under section 8,  
10 not more than \$90,000,000 may be expended  
11 for—

12 (i) reconstructing Delta levees to a  
13 base level of protection;

14 (ii) enhancing the stability of levees  
15 that have particular importance in the sys-  
16 tem through the Delta Levee Special Im-  
17 provement Projects program;

18 (iii) developing best management  
19 practices to control and reverse land sub-  
20 sidence on Delta islands;

21 (iv) refining the Delta Emergency  
22 Plan;

23 (v) developing a Delta Risk Manage-  
24 ment Strategy after assessing the con-  
25 sequences of Delta levee failure from

1 floods, seepage, subsidence, and earth-  
2 quakes;

3 (vi) developing a strategy for reuse of  
4 dredged materials on Delta islands;

5 (vii) evaluating, and where appro-  
6 priate, rehabilitating the Suisun Marsh lev-  
7 ees; and

8 (viii) integrated flood management,  
9 ecosystem restoration, and levee protection  
10 projects, including design and construction  
11 of lower San Joaquin River and lower  
12 Mokelumne River floodway improvements  
13 and other projects under the Sacramento-  
14 San Joaquin Comprehensive Study.

15 (D) PROGRAM MANAGEMENT, OVERSIGHT,  
16 AND COORDINATION.—

17 (i) IN GENERAL.—Of the amounts au-  
18 thorized to be appropriated under section  
19 8, not more than \$25,000,000 may be ex-  
20 pended by the Secretary or the other heads  
21 of Federal agencies, either directly or  
22 through grants, contracts, or cooperative  
23 agreements with agencies of the State,  
24 for—

25 (I) Program support;

1 (II) Program-wide tracking of  
2 schedules, finances, and performance;

3 (III) multiagency oversight and  
4 coordination of Program activities to  
5 ensure Program balance and integra-  
6 tion;

7 (IV) development of interagency  
8 cross-cut budgets and a comprehen-  
9 sive finance plan to allocate costs in  
10 accordance with the beneficiary pays  
11 provisions of the Record of Decision;

12 (V) coordination of public out-  
13 reach and involvement, including trib-  
14 al, environmental justice, and public  
15 advisory activities in accordance with  
16 the Federal Advisory Committee Act  
17 (5 U.S.C. App.); and

18 (VI) development of Annual Re-  
19 ports.

20 (ii) PROGRAM-WIDE ACTIVITIES.—Of  
21 the amount referred to in clause (i), not  
22 less than 50 percent of the appropriated  
23 amount shall be provided to the California  
24 Bay-Delta Authority to carry out Program-

1 wide management, oversight, and coordina-  
2 tion activities.

3 **SEC. 4. MANAGEMENT.**

4 (a) COORDINATION.—In carrying out the Calfed Bay-  
5 Delta Program, the Federal agencies shall coordinate their  
6 activities with the State agencies.

7 (b) PUBLIC PARTICIPATION.—In carrying out the  
8 Calfed Bay-Delta Program, the Federal agencies shall co-  
9 operate with local and tribal governments and the public  
10 through an advisory committee established in accordance  
11 with the Federal Advisory Committee Act (5 U.S.C. App.)  
12 and other appropriate means, to seek input on Program  
13 planning and implementation.

14 (c) SCIENCE.—In carrying out the Calfed Bay-Delta  
15 Program, the Federal agencies shall seek to ensure, to the  
16 maximum extent practicable, that—

17 (1) all major aspects of implementing the Pro-  
18 gram are subjected to credible and objective sci-  
19 entific review; and

20 (2) major decisions are based upon the best  
21 available scientific information.

22 (d) GOVERNANCE.—

23 (1) IN GENERAL.—In carrying out the Calfed  
24 Bay-Delta Program, the Secretary and the Federal  
25 agency heads are authorized to participate as non-



1 voting members of the California Bay-Delta Author-  
2 ity, as established in the California Bay-Delta Au-  
3 thority Act (Cal. Water Code § 79400 et seq.), to the  
4 extent consistent with Federal law, for the full dura-  
5 tion of the period the Authority continues to be au-  
6 thorized by State law.

7 (2) RELATIONSHIP TO FEDERAL LAW AND  
8 AGENCIES.—Nothing in this subsection shall pre-  
9 empt or otherwise affect any Federal law or limit  
10 the statutory authority of any Federal agency.

11 (3) CALIFORNIA BAY-DELTA AUTHORITY.—

12 (A) ADVISORY COMMITTEE.—The Cali-  
13 fornia Bay-Delta Authority shall not be consid-  
14 ered an advisory committee within the meaning  
15 of the Federal Advisory Committee Act (5  
16 U.S.C. App.).

17 (B) FINANCIAL INTEREST.—The financial  
18 interests of the California Bay-Delta Authority  
19 shall not be imputed to any Federal official par-  
20 ticipating in the Authority.

21 (C) ETHICS REQUIREMENTS.—A Federal  
22 official participating in the California Bay-  
23 Delta Authority shall remain subject to Federal  
24 financial disclosure and conflict of interest laws

1           and shall not be subject to State financial dis-  
2           closure and conflict of interest laws.

3           (e) ENVIRONMENTAL JUSTICE.—The Federal agen-  
4       cies, consistent with Executive Order 12898 (59 Fed. Reg.  
5       7629), should continue to collaborate with State agencies  
6       to—

7           (1) develop a comprehensive environmental jus-  
8       tice workplan for the Calfed Bay-Delta Program;  
9       and

10          (2) fulfill the commitment to addressing envi-  
11       ronmental justice challenges referred to in the  
12       Calfed Bay-Delta Program Environmental Justice  
13       Workplan, dated December 13, 2000.

14          (f) LAND ACQUISITION.—Federal funds appropriated  
15       by Congress specifically for implementation of the Calfed  
16       Bay-Delta Program may be used to acquire fee title to  
17       land only where consistent with the Record of Decision.

18       **SEC. 5. REPORTING REQUIREMENTS.**

19          (a) REPORT.—

20               (1) IN GENERAL.—Not later than February 15  
21       of each year, the Secretary, in cooperation with the  
22       Governor and the California Bay-Delta Authority,  
23       shall submit to the appropriate authorizing and ap-  
24       propriating Committees of the Senate and the House  
25       of Representatives a report that—

1 (A) describes the status of implementation  
2 of all components of the Calfed Bay-Delta Pro-  
3 gram;

4 (B) sets forth any written determination  
5 resulting from the review required under sub-  
6 section (b); and

7 (C) includes any revised schedule prepared  
8 under subsection (b).

9 (2) CONTENTS.—The report required under  
10 paragraph (1) shall describe—

11 (A) the progress of the Calfed Bay-Delta  
12 Program in meeting the implementation sched-  
13 ule for the Program in a manner consistent  
14 with the Record of Decision;

15 (B) the status of implementation of all  
16 components of the Program;

17 (C) expenditures in the past fiscal year for  
18 implementing the Program;

19 (D) accomplishments during the past fiscal  
20 year in achieving the objectives of additional  
21 and improved—

22 (i) water storage;

23 (ii) water quality;

24 (iii) water use efficiency;

25 (iv) ecosystem restoration;

1 (v) watershed management;

2 (vi) levee system integrity;

3 (vii) water transfers;

4 (viii) water conveyance; and

5 (ix) water supply reliability;

6 (E) Program goals, current schedules, and  
7 relevant financing agreements;

8 (F) progress on—

9 (i) storage projects;

10 (ii) conveyance improvements;

11 (iii) levee improvements;

12 (iv) water quality projects; and

13 (v) water use efficiency programs;

14 (G) completion of key projects and mile-  
15 stones identified in the Ecosystem Restoration  
16 Program;

17 (H) development and implementation of  
18 local programs for watershed conservation and  
19 restoration;

20 (I) progress in improving water supply reli-  
21 ability and implementing the Environmental  
22 Water Account;

23 (J) achievement of commitments under the  
24 Endangered Species Act of 1973 (16 U.S.C.

1 1531 et seq.) and endangered species law of the  
2 State;

3 (K) implementation of a comprehensive  
4 science program;

5 (L) progress toward acquisition of the  
6 Federal and State permits (including permits  
7 under section 404(a) of the Federal Water Pol-  
8 lution Control Act (33 U.S.C. 1344(a))) for im-  
9 plementation of projects in all identified Pro-  
10 gram areas;

11 (M) progress in achieving benefits in all  
12 geographic regions covered by the Program;

13 (N) legislative action on the issues of—

14 (i) water transfers;

15 (ii) groundwater management;

16 (iii) water use efficiency; and

17 (iv) governance;

18 (O) the status of complementary actions;

19 (P) the status of mitigation measures; and

20 (Q) revisions to funding commitments and  
21 Program responsibilities.

22 (b) ANNUAL REVIEW OF PROGRESS AND BAL-  
23 ANCE.—

24 (1) IN GENERAL.—Not later than November 15  
25 of each year, the Secretary, in cooperation with the

1 Governor and the Calfed Bay-Delta Authority, shall  
2 review progress in implementing the Calfed Bay-  
3 Delta Program based on—

4 (A) consistency with the Record of Deci-  
5 sion; and

6 (B) balance in achieving the goals and ob-  
7 jectives of the Calfed Bay-Delta Program.

8 (2) REVISED SCHEDULE.—If, at the conclusion  
9 of each such annual review or if a timely annual re-  
10 view is not undertaken, the Secretary, the Governor,  
11 or the Calfed Bay-Delta Authority determines in  
12 writing that either the Program implementation  
13 schedule has not been substantially adhered to, or  
14 that balanced progress in achieving the goals and  
15 objectives of the Program is not occurring, the Sec-  
16 retary, the Governor, and the Calfed Bay-Delta Au-  
17 thority, in coordination with the Bay-Delta Public  
18 Advisory Committee, shall prepare a revised schedule  
19 to achieve balanced progress in all Calfed Bay-Delta  
20 Program elements consistent with the intent of the  
21 Record of Decision.

22 (c) FEASIBILITY STUDIES.—Any feasibility studies  
23 completed as a result of this Act shall include identifica-  
24 tion of project benefits and a cost allocation plan con-

1 sistent with the beneficiaries pay provisions of the Record  
2 of Decision.

3 **SEC. 6. CROSSCUT BUDGET.**

4 (a) IN GENERAL.—The budget of the President shall  
5 include requests for the appropriate level of funding for  
6 each of the Federal agencies to carry out the responsibil-  
7 ities of the Federal agency under the Calfed Bay-Delta  
8 Program.

9 (b) REQUESTS BY FEDERAL AGENCIES.—The funds  
10 shall be requested for the Federal agency with authority  
11 and programmatic responsibility for the obligation of the  
12 funds, in accordance with paragraphs (2) through (5) of  
13 section 3(b).

14 (c) REPORT.— At the time of submission of the budg-  
15 et of the President to Congress, the Director of the Office  
16 of Management and Budget, in coordination with the Au-  
17 thority, shall submit to the appropriate authorizing and  
18 appropriating committees of the Senate and the House of  
19 Representatives a financial report certified by the Sec-  
20 retary containing—

21 (1) an interagency budget crosscut report  
22 that—

23 (A) displays the budget proposed, including  
24 any interagency or intraagency transfer, for  
25 each of the Federal agencies to carry out the

1 Calfed Bay-Delta Program for the upcoming  
2 fiscal year, separately showing funding re-  
3 quested under both pre-existing authorities and  
4 under the new authorities granted by this Act;  
5 and

6 (B) identifies all expenditures since 2000  
7 by the Federal and State governments to  
8 achieve the objectives of the Calfed Bay-Delta  
9 Program;

10 (2) a detailed accounting of all funds received  
11 and obligated by all Federal agencies and State  
12 agencies responsible for implementing the Calfed  
13 Bay-Delta Program during the previous fiscal year;

14 (3) a budget for the proposed projects (includ-  
15 ing a description of the project, authorization level,  
16 and project status) to be carried out in the upcom-  
17 ing fiscal year with the Federal portion of funds for  
18 activities under section 3(b); and

19 (4) a listing of all projects to be undertaken in  
20 the upcoming fiscal year with the Federal portion of  
21 funds for activities under section 3(b).

22 **SEC. 7. FEDERAL SHARE OF COSTS.**

23 The Federal share of the cost of implementing the  
24 Calfed Bay-Delta Program for fiscal years 2005 through



1 2010 in the aggregate, as set forth in the Record of Deci-  
2 sion, shall not exceed 33.3 percent.

3 **SEC. 8. AUTHORIZATION OF APPROPRIATION.**

4       There are authorized to be appropriated to the Sec-  
5 retary and the heads of the Federal agencies to pay the  
6 Federal share of the cost of carrying out the new and ex-  
7 panded authorities described in paragraphs (4) and (5)  
8 of section 3(b) \$389,000,000 for the period of fiscal years  
9 2005 through 2010, to remain available until expended.